IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10121 of 2003

Between:

P.Sreelakshmi, W/o P.Saisuresh, A2, Vijaya Apartments, Giddy lane, Gandhinagar, Kakinada.

..... PETITIONER

AND

1 Sale Officer/Co-op. Sub-Registrar, Dist. Co-operative Central Bank Ltd, Kakinada, E.G.Dist.
2 The Deputy Registrar/Officer on Special Duty, Dist. Co-operative Central Bank Ltd, Kakinada.
3 Dist. Co-operative Central Bank Ltd, Devalayam Street Branch, Kakinada, E.G.Dist., rep. by its Branch Manager.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents in proposing to auction the petitioner's property on 04-06-2003 without disposing of the claim petition as illegal, unjustified, arbitrary and contrary to the provisions of the A.P. Cooperative Societies Act and consequently set aside the auction notice issued by the 2nd respondent

Counsel for the Petitioner:MR.P.GIRISH KUMAR

Counsel for the Respondents.1 and 3: MR.C.V.MOHAN REDDY

Counsel for the Respondent No.2: The G.P. for co-operation

The Court made the following :

ORDER

1. Heard both sides.

2. The petitioner herein who claims to be the owner of the property situated in Temple Street, Kakinada files this Writ Petition, inter-alia, seeking Writ of Mandamus to declare the action of the respondents in proposing to auction the said property without considering the claim made by her, as illegal

3. The case of the petitioner is that since she is claiming the said property as her own and also being in possession, she has filed the claim petition before the respondents herein. She has also filed a comprehensive civil suit in O.S.No.264 of 2001 on the file of II Additional Senior Civil Judge, Kakinada against her son for partition of the house property and the same is still pending. It is also pointed out that the respondents are also parties to the said civil suit . In spite of the pendency of these two claims, the respondents are proposing to conduct auction. Hence the Writ Petition.

4. Considering the submissions made and also on perusal of the entire material available on record, it is seen that the petitioner has already taken steps to establish her claim before the respondents and also before the Civil Court in a suit. Having regard to the same,

as long as the claim is not decided properly, the respondents should not proceed with the auction. However, the learned counsel for the petitioner submits that there are two remedies available. The petitioner is prepared to withdraw the said claim i.e., the claim petition filed before the respondents. In the circumstances, the petitioner is permitted to with draw the claim petition with a liberty to establish all her right, title and interest in the suit.

5. The Writ Petition is accordingly disposed of directing the respondents not to proceed with the auction and take any steps further as long as the civil suit is not finally disposed of. It is needless to observe that the respondents are entitled to raise all defences or objections which are available before the civil Court and the same would be disposed of on merits in accordance with law. No costs.

21-07-2004.

Hsd

Assistant Registrar

To

1 Sale Officer/Co-op. Sub-Registrar, Dist. Co-operative Central Bank Ltd, Kakinada, E.G.Dist.
2 The Deputy Registrar/Officer on Special Duty, Dist. Co-operative Central Bank Ltd, Kakinada.

3 Dist. Co-operative Central Bank Ltd, Devalayam Street Branch, Kakinada, E.G.Dist., rep. by its Branch Manager.

4.2 C.Cs to G.P. for co-operation, High Court buildings, Hyderabad (OUT)

5. 2 C.D. copies